IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 81 OF 2006

Shri Lalji Sitaram Sawant ....Applicant.

V/s

State of Maharashtra
(At the instance of Mahatma
Phule Chowk Police Station) ....Respondent.

Mr. Shirish Gupte, Senior Counsel i/b S.Y. Mohite for the applicant.

Mr. Y.S. Shinde, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 1st February, 2006

P.C.:

1. This is an application for anticipatory bail filed by the applicant who has an apprehension that he would be arrested by the Mahatma Phule Chowk Police Station in connection with the offence punishable under section 420, 406, 409, 468, 471, 201, read with 34 of the Indian Penal Code.

2. It is submitted by the learned Counsel appearing on behalf of the applicant that the applicant is working as a Divisional Manager and is a public servant since he is working with the National Insurance Company Ltd. which is a Government Company registered under the provisions of the Companies Act, 1956. The learned

Counsel submitted that while the applicant was working as Divisional Manager at Kalyan Division, the applicant and his staff members were threatened by one Kiran Somai and his three other relatives and associates by entering his Chamber without his permission while he was on duty. This complaint was lodged by the applicant on 29/6/2005 and, thereafter the applicant had received threatening calls and therefore again a written complaint was lodged with Mahatma Phule Chowk Police Station on 5/9/2005. The applicant also had informed the Head Office about the said threats which were given by the said Somai brothers by sending a note to AGM dated 8/9/2005. He submitted that during the course of investigation of his complaint, Shri Ajit Kumar Vartak, Police Sub Inspector had filed a complaint at the said Police Station on 12/12/2005, alleging that the applicant and others had misappropriated huge amounts from the Company by settling false claims. It is submitted that the applicant was a Divisional Manager and had an excellent record in the Office and the applicant had merely sanctioned the claims which were scrutinized by his subordinate staff and, therefore, it is submitted that it could not be said that the applicant was in any way responsible for the settlement of the claims as alleged in the complaint. It is submitted that the

applicant immediately was transferred to the Bombay Office and, therefore, he was not in charge of the Office where the alleged offence has taken place and, therefore, there was no question of any tampering with the documents. It is further submitted that the complaint was essentially based on the alleged illegal sanction of claims and the documents in the Office were sufficient to establish the guilt or otherwise of the applicant and, therefore, custodial interrogation of the applicant was not necessary. It is further submitted that the applicant, in fact, had filed a complaint against the Somai and associates and it was obvious that the said persons had somehow managed to lodge a counter-claim against the applicant and others and that the police were hand in glove with the said Somai brothers.

3. The learned APP has filed reply and he has also brought to my notice various documents to indicate that there was a large scale defalcation of amounts as a result of sanction of illegal and false claims. The learned APP invited my attention to the various documents and submitted that these documents indicate that the auto spare-part shop on which the reliance was placed by the claimant and which was accepted by the applicant, in fact, did not exist. He further

submitted that the garage at which the Car was repaired also did not exist.

4. The learned Counsel appearing on behalf of the applicant submitted that it was impossible for the applicant to physically check and verify the existence or nonexistence of the spare-parts shop and the garages and that he had to rely on the statements which were given by his staff.

5. I have heard the learned Counsel appearing on behalf of the applicant and the learned APP for the State at length. Though, initially, after having perused the complaint and after having gone through the complaints which were lodged by the applicant I was of the view that the present complaint has been lodged as a counter-blast to the complaint of the applicant, yet, after having seen the various material which is produced on record by the learned APP, in my view, this is not a fit case for grant of anticipatory bail since material does exist to indicate that a possibility of large-scale conspiracy to sanction false claims is not ruled out. Since such material has been brought to my notice by the learned APP, I feel that thorough investigation may be necessary. In any case, it cannot be said that a case for grant of

an anticipatory bail is made out.

6. Accordingly, application for anticipatory bail is rejected. If an application for regular bail is made by the applicant before the appropriate court the same may be considered on its own merits and the Trial Court may not be influenced by any observation made by this Court in this Order while rejecting the anticipatory bail.

7. Application is accordingly disposed of.

V.M. KANADE, J.